

# In the United States Court of Federal Claims

No. 20-1668  
(Filed: October 25, 2021)

\*\*\*\*\*  
KELVIN ANDRE SPOTTS, \*  
\*  
Plaintiff, \*  
\*  
v. \*  
\*  
THE UNITED STATES, \*  
\*  
Defendant. \*  
\*\*\*\*\*

## ORDER

Kelvin Andre Spotts, an incarcerated *pro se* plaintiff, brings this suit for breach of contract against the United States based upon alleged violations of a list of “Inmate Rights and Responsibilities” he received upon his arrival to federal prison. *See generally* Compl., ECF No. 1. With his complaint, Mr. Spotts filed an application to proceed *in forma pauperis*. ECF No. 2.

On September 23, 2021, the Court issued an order denying Mr. Spotts’ motion for leave to proceed *in forma pauperis* based upon an application of 28 U.S.C. § 1915(g), which prohibits a prisoner plaintiff from proceeding *in forma pauperis* if the plaintiff, while incarcerated, has had three or more prior suits dismissed as frivolous or malicious or for failure to state a claim. *See* Order at 1, ECF No. 18; 28 U.S.C. § 1915(g). Mr. Spotts’ previous litigation history prohibits him from proceeding *in forma pauperis*, and thus the Court ordered him to pay the Court’s filing fee by October 22, 2021. *See* Order at 3. The Court further informed Mr. Spotts that failure to pay the fee would result in dismissal of his case for failure to prosecute. *Id.*

Mr. Spotts did not pay the filing fee by the October 22, 2021 deadline. As a result, the case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute pursuant to Rule 41(b) of the Rules of the United States Court of Federal Claims. The government’s motion to dismiss, ECF No. 9, and Plaintiff’s motion for injunctive relief, ECF No. 12, are **DENIED AS MOOT**. The Clerk shall enter judgment accordingly.

**IT IS SO ORDERED.**

s/ Thompson M. Dietz  
THOMPSON M. DIETZ, Judge